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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM (M) 595/2022 & CM No. 28351/2022, CM No.28352/2022
SH RAM PAL SHARMA Petitioner
Through: Mr. Satpal Singh, Adv.

versus

MS GOPI NATH PVT LTD Respondent
Through: Mr. Rajiv Dalal, Mr. Sanjeev
Sharma, Mr. Kamla Dalal, Ms. Dipti Singh
and Mr. Vikas Bhardwaj, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGEMENT (O R A L)

% **06.07.2022**

1. The impugned order dated 9th May 2022, passed by the learned Additional District Judge (“the learned ADJ”), dismisses RCA No. 67/2022, which was an appeal preferred by the petitioner against order dated 7th December, 2021 passed by the learned Civil Judge in Execution Petition 2340/2018 as not maintainable, and also proceeds to dismiss the appeal on merits.

2. It is clear that, having held the appeal not to be maintainable, the learned ADJ ought not to have entered any observations on merits, as he, by his own decision that the appeal was not maintainable, was rendered *coram non judice*.

3. Mr. Satpal Singh, learned Counsel for the petitioner does not seek to contest the present petition on the aspect of maintainability of



the appeal before the learned First Appellate Court. He submits that he would choose, rather, to seek his remedies against the order dated 7th December, 2021 passed by the learned Civil Judge in accordance with law.

4. Mr. Satpal Singh's only apprehension is that, as the learned ADJ has entered findings on the merits of the order dated 7th December, 2021 of the learned Civil Judge, the said observations may influence the proceedings that he now seeks to initiate against the order dated 7th December, 2021.

5. I have already held that the learned ADJ ought not to have entered any observations on merits in the judgment dated 9th May, 2022. As such, if the petitioner seeks to challenge the order dated 7th December, 2021 by any other proceedings, without expressing any observations on the maintainability or merits of such other proceedings that the petitioner may choose to initiate, it is clarified that the observations on merits contained in the impugned judgment dated 9th May, 2022 shall not influence the said proceedings.

6. With the aforesaid observations, this petition stands disposed of.

C.HARI SHANKAR, J

JULY 6, 2022/kr